

ESTTA Tracking number: **ESTTA646532**

Filing date: **12/22/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92057344
Party	Plaintiff Cloudpath Networks, Inc.
Correspondence Address	STEPHEN GRUBER NEUGEBOREN O'DOWD PC 1227 SPRUCE STREET, SUITE 200 BOULDER, CO 80302 UNITED STATES craig@neugeborenlaw.com, sarah@nodiplay.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Craig Neugeboren
Filer's e-mail	craig@neugeborenlaw.com, sarah@nodiplay.com, vanessa@nodiplay.com
Signature	/Craig Neugeboren/
Date	12/22/2014
Attachments	RAC0000512.PDF(1992234 bytes ) RAC0000514.PDF(2590595 bytes ) RAC0000516.PDF(2383902 bytes ) RAC0000518.PDF(636124 bytes ) Racemi RFA Responses_1.PDF(194491 bytes )

# The Schwartz Cloud Report

[Blog Home](#)

---

## Racemi Launches Server Image Migration Service

Racemi, a company that offers software to move Windows and Linux images from one bare-metal server to another, this week added cloud migrations to its portfolio. The company's new Cloud Path is a software as a service (SaaS) offering that lets administrators move server images to public cloud services.

IT pros can use Cloud Path from a Web browser to migrate physical and virtual servers to infrastructure as a service (IaaS) cloud providers. Atlanta-based Racemi claims migrations will cost on average \$800 less than performing manual re-imaging of data.

Pricing is based on a usage-based model and eliminates the need to rely on experienced administrators, who can move server images without requiring templates or scripts. In addition to moving workloads from in-house systems to cloud-based servers, Cloud Path lets customers migrate cloud instances between different supported cloud providers.

Racemi charges \$299 per successful migration, which includes an initial 20 GB of free storage. Customers can currently migrate Windows Server 2008 R2, Red Hat Enterprise Linux and CentOS systems to cloud services provided by Amazon Web Services, GoGrid, Rackspace and Verizon's Terremark. Racemi said it plans to support additional server OSes and cloud service providers over time.

---

*Posted by Jeffrey Schwartz on 09/06/2012 at 1:14 PM*

---

PRINTABLE FORMAT ([HTTP://REDMONDMAG.COM/BLOGS/THE-SCHWARTZ-CLOUD-REPORT/2012/09/RACEMI-CLOUD-PATH.ASPX?P=1](http://redmondmag.com/Blogs/The-Schwartz-Cloud-Report/2012/09/Racemi-Cloud-Path.aspx?P=1))

0 comments

★ 0



Start the discussion...

Best ▾

Community

Share

Login ▾

No one has commented yet.

ALSO ON REDMOND MAGAZINE

WHAT'S THIS?

### [Slim Pickings for Windows 8 Cyber Monday Deals -- Redmondmag.com](#)

1 comment • 8 days ago



Marc Wagner — It's hell if you do, hell if you don't! People laughed at Microsoft when the original Surface RT shipped at ...

### [Microsoft 'Threshold' Product Wave Said To Arrive in 2015 -- ...](#)

1 comment • 8 days ago



RonG — Just another step in Microsoft's rush to redundancy.

### [Why Can't SkyDrive's Apps Work Like Dropbox? -- Redmondmag.com](#)

13 comments • 20 days ago



Shawn — With my upgrade from windows 8 to 8.1 I'm forced to use a Microsoft ID rather than a local account to login to my laptop ...

### [10 Biggest Microsoft Surprises of 2013 -- Redmondmag.com](#)

3 comments • 11 days ago



Mario — My Surface Pro 2 gets great battery life.

Subscribe

Add Disqus to your site

Members Login: [Log in](#)  
[RSS](#)



News in the IT cloud market

Search For Articles

- [Home](#)
- [Cloud Integration](#)
- [Managed Clouds](#)
- [Hybrid](#)
- [Private Cloud](#)
- [Virtualization](#)

## Cloud Newsmakers

# Racemi Offers Easy Migration to Rackspace Open Cloud

November 15, 2012



Racemi's cloud migration software now makes it easier for organizations to migrate existing workloads to Rackspace's open cloud platform.

That means it's no longer necessary to rebuild servers from scratch in the cloud, which translates to significant time and cost savings.

Both its Cloud Path software as a service and DynaCenter on-premises software can now migrate servers running supported operating systems to Rackspace open cloud server instances.

Support for Rackspace's open cloud has been added to existing support for public clouds that include Amazon EC2, GoGrid, Rackspace (first generation cloud servers) and Terremark. Also, it's possible to automatically migrate cloud instances between cloud providers, which means existing Rackspace first generation cloud customers can now migrate to Rackspace open cloud instances in an automated, unattended fashion.

"With our Cloud Path automated, online migration service, customers now have more operating system (OS) and public cloud choices than anything else we know of," said James Strayer, vice president of product management, Racemi. "With investments in staffing and automation, our pace will be accelerating in the coming months, enabling us to support additional OS platforms and cloud providers."

"This update will not only help new Rackspace customers, but it will make it easier for existing Rackspace customers to move to our open cloud platform," said Bob Bardwell, business development manager at Rackspace. "We are pleased to be collaborating with a company like Racemi that continues to support our effort to reduce the barriers to cloud adoption."

Workloads are migrated to the cloud by automatically creating new cloud server instances, comparing the configurations of the source and destination servers, and then configuring the necessary cloud tools, virtual machine components, disk, and network layout "in-flight" to help ensure that the image can be run on the new cloud platform.

[Read More.](#)

## Subscribe To Newsletter

Email Address:

Subscribe

## Latest Headlines

- [GlobalOutlook Connects the Office in the Cloud](#)
- [IBM Rolls Out Cloud-based Services, Software for Social Business](#)
- [Cloud EHR Provider Athenahealth Buys Mobile Health Firm Epocrates](#)
- [YouMail, Red Pocket Mobile Partner on Cloud-Based Visual Voicemail](#)
- [Synchronoss Buys NewBay From RIM](#)
- [Telenor, Microsoft Sign Cloud Deal](#)
- [Oracle To Acquire Cloud-based Analytics Firm DataRaker](#)

- [IBM Rolls SmartCloud Docs, Cloud Collaboration Tools](#)
- [Symantec Launches Norton Zone For Secure Cloud File Sharing](#)
- [Red Hat Updates OpenStack Cloud in New Preview Release](#)

## Cloud Newsmakers

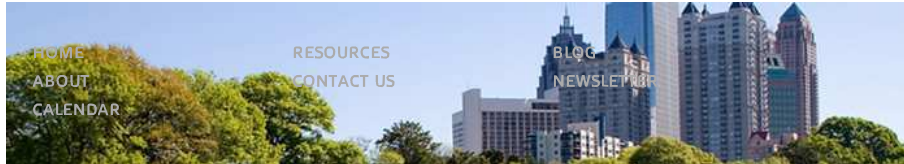
- [GlobalOutlook Connects the Office in the Cloud](#)
- [IBM Rolls Out Cloud-based Services, Software for Social Business](#)
- [Cloud EHR Provider Athenahealth Buys Mobile Health Firm Epocrates](#)
- [YouMail, Red Pocket Mobile Partner on Cloud-Based Visual Voicemail](#)
- [Synchronoss Buys NewBay From RIM](#)
- [Telenor, Microsoft Sign Cloud Deal](#)
- [Oracle To Acquire Cloud-based Analytics Firm DataRaker](#)
- [IBM Rolls SmartCloud Docs, Cloud Collaboration Tools](#)
- [Symantec Launches Norton Zone For Secure Cloud File Sharing](#)
- [Red Hat Updates OpenStack Cloud in New Preview Release](#)

## Most Popular Posts

- [Platform Computing for Private Clouds](#)
- [Lockheed Martin Launches New Private Cloud](#)
- [HP Provides Flexibility and Speed with Instant-On Enterprise Solutions](#)
- [Future for Cloud is Bright](#)
- [Spring CM Offers 5 Tests for Cloud-Based ECM](#)

[About Us](#) [Contact Us](#) [New Yorker Theme](#) by [PressJunkie](#)

© 2012 Enterprise Cloud Today


[CONFERENCE](#) [COMPANIES](#) [ATTEND](#) [SPONSORS](#) [SCHEDULE](#)

[HOME](#) [ABOUT](#) [CALENDAR](#) [RESOURCES](#) [CONTACT US](#) [BLOG](#) [NEWSLETTER](#) [INVESTOR & ENTREPRENEUR RESOURCES](#) [NEWSLETTER](#) [BLOG](#) [PRESS](#)

## THE SKY'S THE LIMIT FOR 2011 VENTURE ATLANTA PRESENTER RACEMI, INC.

Posted on September 11, 2013



What a difference two years makes!

Back in 2011, when Atlanta-based [Racemi, Inc.](#) presented at Venture Atlanta, it had zero revenue with its soon-to-launch SaaS product Cloud Path that allows businesses to move their servers between private and/or public cloud providers. Today, Racemi has more than 500 customers, deployed on thousands of servers all over the world.

“So much of the market is confused about the cloud,” says Lawrence Guillory, CEO of Racemi. “They want consultants to help them figure out strategy. That’s not what Racemi does.” To distinguish its services from other providers, Racemi describes Cloud Path as “the moving company for the cloud,” with an image of a moving truck featured prominently on its website. Racemi has managed to take a process that may take days, months, or even years, and dramatically shorten it in a cost-effective manner.

Boosted by a \$7 million round of funding, Racemi has developed a number of partnerships with some of the world’s top cloud services providers,



### BLOGROLL

[BILL GURLEY](#)  
[BRAD FELD](#)  
[DAVID CUMMINGS](#)  
[FRED WILSON](#)  
[LANCE WEATHERBY](#)  
[STEPHEN FLEMING](#)  
[THE VENTURE CORNER](#)

Guillory notes.



Lawrence Guillory, Racemi CEO

According to Guillory, one of the keys to Racemi's success is its people. "The secret is the culture. We're doing something meaningful in IT, but we're having a real fun time doing it," Guillory says.

Guillory characterizes the corporate culture as "fast-moving, fun, [and] mission-focused." He adds, "Everyone believes in the mission, [and] respect[s] the value each brings to the table."

Employees work hard, but also have fun. They're also known to play practical jokes on each other. "If you go on vacation, you can bet your office is going to be decorated in some way," he adds.

Racemi is able to stay at the forefront of cloud technology by capitalizing on connections. Guillory stays in touch with early adopters of the cloud and maintains regular contact with customers through attendance at conferences and face-to-face meetings. Guillory believes he is able to see trends 18 months before analysts do by staying "in traffic."

Not surprisingly, Guillory is bullish on the industry and the company's prospects. "[Our] partners are expecting a tremendous amount of growth in the coming years. [Racemi] wants to deliver," Guillory notes.

Plans are in place for new product launches, with an announcement planned for the first quarter of next year. Racemi recently kicked off a new round of fundraising, and is preparing for the next level of expansion: increasing support staff to extend across all time zones.

---

## SEPTEMBER 2013 NEWSLETTER

- **FEATURE:** [Better Health Through IT](#)
- **SPARKS:** [Outlook Strong for Fantasy Football MVPs at Competitive Sports Analysis](#)
- **MORE SPARKS:** [The Sky's the Limit for Racemi](#)
- **AROUND GEORGIA:** [Startup Community Accelerators in Augusta, Ga.](#)

[Share](#) |

---

**Erica Callaway**

@EricaCallaway

**Follow**

IBM offers #Racemi "Cloud Path" migration solution free of charge to IBM #SmartCloud customers! @Racemi

Reply

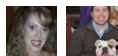
Retweet

Favorite

More

**2**

RETWEETS



8:31 AM - 22 Apr 13

**Don't miss any updates from Erica Callaway**

Join Twitter today and follow what interests you!

Text **follow EricaCallaway** to **40404** in the United States**Sign up**© 2013 Twitter [About](#) [Help](#) [Ads](#)



12/10/13

Twitter / EricaCallaway: IBM offers #Racemi "Cloud Path" ...

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Cloudpath Networks, Inc.,	§	
	§	Cancellation No. 92057344
Petitioner,	§	(Registration No. 4,174,640)
	§	
vs.	§	
	§	
Racemi, Inc.,	§	
	§	
Registrant.	§	
	§	

**REGISTRANT'S RESPONSES TO PETITIONER'S  
FIRST REQUEST FOR ADMISSIONS**

Pursuant to 37 C.F.R. § 2.120 and Rules 26 and 36 of the Federal Rules of Civil Procedure, Registrant, Racemi, Inc. ("Racemi" or "Registrant"), hereby provides the following responses to *Cloudpath's First Request for Admissions*.

**GENERAL OBJECTIONS**

1. Racemi objects to each and every request to the extent that it seeks information protected from discovery by the attorney-client communications privilege or the attorney work product immunity doctrine.
2. Racemi objects to each and every definition, instruction and request to the extent that it purports to require Racemi to search for information or materials not within Racemi's possession, custody or control. To do so would place an undue added burden upon Racemi.
3. Racemi objects to each and every definition, instruction and request to the extent it purports to require Racemi to provide discovery or information and materials not otherwise required under 37 C.F.R. § 2.120 and the applicable Federal Rules of Civil Procedure.

4. Racemi objects to the putative definition of the term “Racemi” to the extent that it is intended to refer to any natural person or entity other than Registrant Racemi, Inc. Racemi also objects to the putative definition of “Racemi” because of the ambiguity arising from the incorporation of the self-contradictory term “Registrant/Petitioner” in that putative definition.

5. Racemi objects to the putative definition of the terms “Racemi mark,” “Cloudpath’s CLOUDPATH mark” and “Cloudpath’s Mark” to the extent that each putative definition purports to include any “federal trademark registration” inasmuch as a federal trademark registration itself is incapable of being a mark and thus the definition is nonsensical or, at best, vague and ambiguous.

6. Racemi also objects to the putative definition of the terms “Cloudpath’s CLOUDPATH mark” and “Cloudpath’s Mark” to the extent that each putative definition refers erroneously to the subject of U.S. Registration No. 4,045,900 as “CLOUD PATH,” whereas, in fact, the subject of that registration is the service mark “CLOUDPATH,” and thus the definition is vague and ambiguous.

7. These responses are made without waiver of and with preservation of:

(a) all questions as to competency, relevancy, materiality, privilege and admissibility of the responses and the subject matter thereof as evidence for any purpose and in any further proceeding in this action and in any other action;

(b) the right to object to the use of any such responses or the subject matter thereof, on any ground in any further proceeding in this action and any other action;

(c) the right to object on any ground at any time to a demand or request for further response to these or any other discovery requests involved or related to the subject matter of the discovery to which these responses are provided; and

(d) the right at any time to review, correct, add to, supplement or clarify any of the responses contained herein.

8. The following responses are based upon information and documents presently available to and located by Racemi and its attorneys. Racemi has not completed its investigation of the facts relating to this proceeding, has not completed its discovery in this proceeding, and has not completed its preparation of its testimony. The responses given herein to the discovery requests are without prejudice to Racemi's right to produce evidence of any additional facts or materials.

These general objections apply to all of Racemi's requests for admission. To the extent that the specific General Objections are cited herein in response to specific discovery requests, those specific citations are provided because they are believed to be particularly applicable to the requests and are not to be construed a waiver of any other General Objections applicable to information or materials falling within the scope of the requests.

#### RESPONSES TO REQUESTS FOR ADMISSIONS NOS. 1-5

##### Request No 1:

Admit that the documents produced by Racemi in response to its initial disclosure obligations and in response to documents requests served by Cloudpath are authentic. Namely, admit that documents produced by Racemi as RAC000001-RAC0000670 are authentic.

##### Response to Request No. 1:

Racemi objects to this request on the grounds that it is vague and ambiguous, particularly inasmuch as the authenticity of a document is dependent upon what the proponent of the document as evidence claims it to be. Thus, inasmuch as Racemi has claimed only that it believes each produced document is a true and correct copy of a document in its possession, custody or control which is responsive to one or more discovery requests, Racemi admits such. Otherwise,

Racemi denies the request, and, in any event, Racemi does not admit that any particular produced document is admissible as evidence for any or all purposes in this proceeding.

Request No. 2:

Admit that Racemi was aware of Trademark Registration No. 4045900 prior to filing for trademark application No. 85460848.

Response to Request No. 2:

Admitted.

Request No. 3:

Admit that Racemi and Cloudpath share at least one common customer.

Response to Request No. 3:

Denied.

Request No. 4:

Admit that Racemi and Cloudpath advertise for their respective services through at least one common channel of trade.

Response to Request No. 4:

Denied.

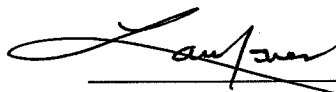
Request No. 5:

Admit that Racemi was aware of at least one instance of actual confusion between its goods and services and those of Cloudpath.

Response to Request No. 5:

Denied.

Respectfully submitted,



Larry C. Jones  
Carla H. Clements

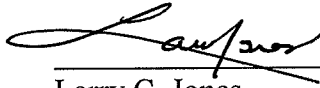
Alston & Bird, LLP  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, North Carolina 28280-4000  
Telephone: (704) 444-1000

Attorneys for Registrant,  
Racemi, Inc.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Registrant's Responses to Petitioner's First Request for Admissions" was duly served on Petitioner via email as shown below on June 2, 2014, pursuant to an agreement between the parties to serve all such documents electronically:

Craig Neugeboren ([Craig@NeugeborenLaw.com](mailto:Craig@NeugeborenLaw.com))  
Steve Gruber ([Steve@NeugeborenLaw.com](mailto:Steve@NeugeborenLaw.com))  
Rene Roskam ([Rene@NeugeborenLaw.com](mailto:Rene@NeugeborenLaw.com))  
Neugeboren O'Dowd PC  
1227 Spruce St., Suite 200  
Boulder, CO 80302

A handwritten signature in black ink, appearing to read "Larry C. Jones", is written over a horizontal line.

Larry C. Jones